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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,099	03/10/2004	Achim-Philipp Sturm	1004640-000043	2355
21839	7590	08/31/2009		
BUCHANAN, INGERSOLL & ROONEY PC			EXAMINER	
POST OFFICE BOX 1404			HOFFMANN, JOHN M	
ALEXANDRIA, VA 22313-1404				
			ART UNIT	PAPER NUMBER
			1791	
NOTIFICATION DATE	DELIVERY MODE			
08/31/2009	ELECTRONIC			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/796,099	<b>Applicant(s)</b> STURM ET AL.
	<b>Examiner</b> John Hoffmann	<b>Art Unit</b> 1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 15 June 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2-8,15,16,18-35 and 40-42 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 2-8,15,16,18-35 and 40-42 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 19 December 2008 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "screw elements" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

See also MPEP 608.02(v).

***Response to Amendment***

The amendment filed 12/19/2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: that the twin/triple screw elements are "flighted" and that feature 2 is the wedge surface.

The amendment filed 7/7/2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. There is no support for figure 2, specifically the manner in which Am is (not) part of the process space as shown in figure 2. [0006] clearly teaches that AM is part of the processing space - which is not reasonably represented by figure 2.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 40-42 , 2-8, 15, 16, and 18-35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no support for the limitation regarding "twin flighted screw elements". Examiner could find no literal support for this language. Examiner understands that in the technology area there are "twin screw" extruders that have two screws (see for example 4540592) and then there are "twin flight" screws (i.e. a screw with two flights - a double helix, see 6234659 for instance.) Claim 1 as originally filed refers to "twin screw elements" – but there is no indication as to whether there are twin screws or twin elements (e.g. flights) of a single screw. There is no discussion as to what these elements are.

As to implies support: there is none. Whereas claim 1 as originally filed refers to "twin screw elements", there is no indication that they are flighted. Rather, it would

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seem to examiner that the 'elements' themselves are the flights. As Examiner now understands the terminology:

Claim 16: there is no support for the limitation that the screws are tightly intermeshing.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 40-41 , 2-8, 15, 16, and 18-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 40 there is no antecedent basis for "said twin flighted screw elements at a Da/di ratio...." (last two lines). It is also unclear what is meant by the elements being "at a...ratio of 1.3 to a...ratio of 1.7." As an analogy, if a claim recited a material is "at a temperature of 100 to a temperature of 200", it is vague as to whether there is a single temperature between those two values, or if it changes between 100 and 200. As set forth at page 11 (lines 1-2) of the 1/14/2009 rejection: the claims do not require a ratio within the claimed range. Examiner could find no indication in the present response which suggests applicant intends amended claim 40 to require that Da/Di is within the range of 1.3 and 1.7. It would be unreasonable for Examiner to interpret claim 40 as being limited to a specific ratio - without a claim limitation reciting such, or another indication in the response which indicates what applicant intended the claim to mean.

In summary, the last three lines are so confusing as to not permit one of ordinary skill know what the claim includes and excludes.

Claim 4: there is confusing antecedent basis for "Da/Di" – Claim 40 indicates two Da/Di ratios: "a Da/Di ratio of 1.3" and "a Da/Di ratio of 1.7".

Claim 6: there is no antecedent basis for "the product processed during processing". Claim 40 merely calls for "preparation of a product" (preamble). Although there is reference to a "process space" there is no mention of any processing. It is unclear if it is the preparing or something else. It is unclear if it is the material that is supplied, or that which is eventually extruded, or the material in between those two. See also the original title of the application which refers to two processes: "continuous mixing and preparation processes".

Claim 22: there is no antecedent basis for "the course" – thus making it difficult to tell when or when the supplying occurs – and if it is in addition to the supplying of claim 40. And it is unclear if it relates to any of the "preparation" of claim 40 or the "processing" of claim 6; that is: there is confusing antecedent basis for "processing" of line2 of claim 22. It is still further confusing as to whether the line 6 processing is any/all of the other processings mentioned.

Claim 4: there is confusing antecedent basis for Da/Di - it is unclear if it related to the Da/Di of claim 40, or if it requires the screws actually used in the process to have the value. It is unclear what is meant by the value "is from 1.5 to 1.63". The value Da/Di is generally a single value. It is unclear if applicant intends it to be a value within the range of 1.5 to 1.63, or if it is suppose to be considered a ratio 1.5:1.63, or whether

it means that all of the ratios are required by a non-constant Di and/or non-constant Da, or if there is a typographical error and "to" really should be "or". Compare also to claim 5 which sets forth an inequality. That applicant uses such an expression for claim 5, such is indicative that applicant did NOT intend claim 4 fraction to be a value within a range of 1.5-1.63 because different language is used.

The term "screw elements" is indefinite as to its meaning. There is no explanation/description of the elements. Since the claims requires both "screws" and "screw elements" it is implied that they are two different things. However [00024] and elsewhere indicate that the screw elements are what are self-cleaning, what is claimed in claim 40 is that the screws are self-cleaning. This somewhat implies they are the same thing. Also, the language "twin-flighted" further connotes that the screws and the screw elements are the same things. *Karlin Tech. Inc. v. Surgical Dynamics, Inc.*, 177 F.3d 968, 971-72, 50 USPQ2d 1465 (Fed. Cir. 1999) (recognizing "the common sense notion that different words or phrases used in separate claims are presumed to indicate that the claims have different meanings and scope.").

Claim 16:

The language "tightly" is a "word of degree" which is imprecise unless a definition or guideline has been set forth in the specification or the term is otherwise well known in the art. See Seattle Box Co. v. Industrial Crating and Packing, Inc., 731 F.2d 818, 826, 221 USPQ 568, 574 (Fed. Cir. 1984). However, there is no evidence in application (nor is Examiner aware of any evidence) that the words "tightly" have any art-recognized

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meaning. Nor is there any guidance or definition in the specification that would allow one of ordinary skill in the art to understand the meaning of the words "tightly".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 40, 2-5, 16, 42 and 18-21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Heidemeyer 6042260.

See how Heidemeyer was applied in the 1/14/2009 Office action. Claim 40 now stipulates "twin flighted screw elements" - figure 5 reasonably anticipates this limitation: each extended portion of the oval is a cross section of its respective screw element.

Claim 40 also now recites the process space limitation slightly differently, however such does not serve to define over Heidemeyer. As before, claim 40 does not appear to recite that Da/Di is between 1.3 and 1.7. Nor is there any argument that suggests

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applicant intended to requires such. It would be unreasonable for the Office to interpret a claim limitation as being narrow - when neither the claims nor the arguments suggests that a narrow interpretation was intended by applicant.

Or to put it another way:

Examiner notes there appears to be numerous reasonable interpretations for the process space limitations:

- A) that there is exactly one Da/Di ratio and it is more than 1.3 and less than 1.7, and the  $Am^3/Vf^2$  ratio is between 1020 and 3050.
- B) that there is exactly one Da/Di ratio and it is 1.3 or more, and 1.7 or less and the  $Am^3/Vf^2$  ratio is between 1020 and 3050.
- C) that there are one or more Da/Di ratio and at least one is between 1.3 and 1.7 and the  $Am^3/Vf^2$  ratio is between 1020 and 3050.
- D) that there is one or more Da/Di ratio and none of them is outside the 1.3-1.7 range and the  $Am^3/Vf^2$  ratio is between 1020 and 3050.
- E) that if there is a Da/Di ratio for at least one of the screw elements between 1.3 and 1.7, then the  $Am^3/Vf^2$  ratio is between 1020 and 3050.
- F) that the Da/Di goes from a "ratio of 1.3 to...1.7" and the  $Am^3/Vf^2$  ratio is between 1020 and 3050. For example if Da stays constant and Di decreases axially, the ratio goes from "1.3 to...1.7".

Etc.

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The PTO gives a disputed claim term its broadest reasonable interpretation during patent prosecution. Hyatt, 211 F.3d at 1372. The "broadest reasonable interpretation" rule recognizes that "before a patent is granted the claims are readily amended as part of the examination process." Burlington Indus. v. Quigg, 822 F.2d 1581, 1583 (Fed. Cir. 1987). Thus, a patent applicant has the opportunity and responsibility to remove any ambiguity in claim term meaning by amending the application. In re Prater, 415 F.2d 1393, 1404-05 (CCPA 1969). Additionally, the broadest reasonable interpretation rule "serves the public interest by reducing the possibility that claims, finally allowed, will be given broader scope than is justified." In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004) (quoting In re Yamamoto, 740 F.2d 1569, 1571-72 (Fed. Cir. 1984)).

Examiner finds that E) above is the broadest of the reasonable interpretations.

And this limitation does not distinguish over Heidemeyer since the claim does not stipulate what happens if Da/Di is not within the range.

Examiner is not exactly sure that interpretations A-D (above) are in fact reasonable. Because the last 3 lines of claim 40 are suggestive of a single limitation - of an interrelation between the Da/Di ratio(s) and the  $Am^3/Vf^2$ . That is, the claim does not stipulate or suggest merely two limitations.

Claims 2-3 are met for the reasons previously given.

Claim 4: As per page 15 of the response Applicant admits in the second paragraph that it is clear that claim 4 requires a single value (in the 1.5-1.63 range). See col. 6, line 5, and col. 3, lines 38-39 which suggests a value within the 1.5 to 1.6 range. Regardless, it would have been obvious to perform routine experimentation to determine the optimal Da/Di ratio, depending upon the materials used and the desired property. Heidemeyer clearly recognizes Da/Di to be a result effective variable.

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Claim 5: [0006] identifies Vf as the receiving capacity of the components that are supplied. It would have been obvious to supply as much or as little components to the extruder- depending upon the amount of material desired. THe more supplied, the greater its capacity and the lower the fraction. And the less that is supplied and needed, the lower its capacity and the larger the fraction. Regardless of what Am is Heidemeyer, one could gets substantially any value of  $Am^3/Vf^2$ . Depending upon how much material is used. Such would be an obvious modification.

**From MPEP 2144.04**

A. Changes in Size/Proportion

In re Rose , 220 F.2d 459, 105 USPQ 237 (CCPA 1955) (Claims directed to a lumber package "of appreciable size and weight requiring handling by a lift truck" where held unpatentable over prior art lumber packages which could be lifted by hand because limitations relating to the size of the package were not sufficient to patentably distinguish over the prior art.); In re Rinehart, 531 F.2d 1048, 189 USPQ 143 (CCPA 1976) ("mere scaling up of a prior art process capable of being scaled up, if such were the case, would not establish patentability in a claim to an old process so scaled." 531 F.2d at 1053, 189 USPQ at 148.).

In Gardner v. TEC Systems, Inc., 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

Claim 16: see col. 4, lines 62-64.

Claims 18-21 are met for the reasons previously given.

Claim 42: see figure 5 of Heidemeyer

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 6-8 and 22-35 are rejected under 35 U.S.C. 103(a) as obvious over Heidemeyer 6042260 as applied to claim 40, above, and further in view of Nosker 5951940.

Heidemeyer does not disclose the materials extruded. Nosker teaches to extrude waste PET. It would have been obvious to use the Heidemeyer apparatus to recycle PET soda bottles, since such would be an inexpensive material and would serve to reduce landfills. Claims 7-8 are clearly met.

Claims 22-23: See col.2, lines 10-17 of Heidemeyer which teaches well times less than 2 seconds and the high throughputs decrease thermal decomposition and cross linking. It would have been obvious to maximize the throughput and thus minimize the time at high temperatures so as to prevent decomposition and/or cross-linking.

Claim 24 is deemed to because the prior art is suggestive of the same thing that applicant discloses. That is at [00014] applicant discloses the use of PET bottle recyclate - just like Nosker discloses. And Nosker further discloses water washing: col. 3, lines 20-32. Examiner could find no mention in Nosker of any effort to remove residual water. Thus it would be reasonable to assume that substantially the same amount of residual water would remain in the Nosker material as applicant found in their product.

Claim 25: it would have been obvious to use the whatever curbside tailings were available, or necessary to get rid of. How dense they are presented does not appear to be a patentable difference.

Claim 26: The terms "chip" and "chippings" are not limited by the disclosure. Nor is any example given. Examiner's dictionary reports one definition for chip as: "something small, worthless or trivial". It is deemed that Nosker's pellets are, by themselves, substantially small, worthless or trivial, and thus can be considered "chips".

Claim 27 the elutriation of Nosker signifies that something occurs prior to water removal/drying. The washing in water occurs pre-drying. Alternatively: The claims do not require any "application in a molten state".– Neither Heidemeyer nor Nosker discloses "application in a molten state". Claim 27 can be interpreted as requiring a pre drying – if there is an "application in a molten state", but it does not stipulate anything if there is no such "application in a molten state". Thus claim 27 does not serve to define over methods which have no "application in a molten state" such as in Heidemeyer/Nosker.

Claim 28-29: see col. 1, lines 10-15 of Heidemeyer

Claims 30-32 and 34 are met for the same reason claim 27 is – that is the limitations only further limit those situations which have a further step of "application in the molten state". Nowhere do the claims require an application step, thus claims 30-32 and 34 do not require the periods in non-"application" methods. Likewise for claim 33 – which only further limits method s with have processing of molten polycondensate outside of the extruder - which the combined references lack.

Claim 35: See Nosker, col. 4, line 51.

Claim 41 is rejected under 35 U.S.C. 103(a) as obvious over Heidemeyer 6042260 as applied to claim 40, above, and further in view of Ullrich 3963679.

Heidemeyer does not disclose the use of an elastomer. It is well known that elastomers are important polymers that can be used for various things such as panels, foils tubes and cable sheathes as disclosed by Ullrich. Ullrich also shows it is known to process them with multi-screw extruders. It would have been obvious to use the Ullrich polymer in the Heidemeyer apparatus, depending upon what polymeric material is more profitable to make. See also the rejection of claim 41 in the prior Office action.

#### ***Response to Arguments***

Applicant's arguments filed 6/15/2009 have been fully considered but they are not persuasive.

Applicant requests the withdrawal of the objection to the drawings for failure to show the screw elements. The request is based on the assertion that the term "screw elements" is known to the ordinary skilled artisan. Examiner could not find the purported evidence actually being submitted to the Office, nor does there appear to me any connection between whether a term is known, and whether it is shown in the drawings. The purpose of the drawing rules is in keeping with the Constitutional mandate to promote the useful arts – Showing what the invention is in the drawings

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(including the screw elements" serve to show the public what the invention is. The request is denied.

It is again argued that support for the flighted screw elements can be found in the German applications from which the current application claims priority and have been incorporated by reference. As indicated the 1/14/2009 Office action, this is not very relevant because it is only argument. There is no evidence to support this assertion . Applicant also refers to DE 10144748- however this reference is not incorporated by reference. Moreover, this reference is not of record - and examiner probably could not read it, even it were relevant.

In other words Although MPEP 20113 states content that is incorporated by reference is not considered new matter, applicant has not reasonably shown that the matter in question was actually incorporated by reference. Merely assertion that some feature was in an incorporated document is not very relevant.

From **MPEP 2145 Consideration of Applicant's Rebuttal Arguments**

I. ARGUMENT DOES NOT REPLACE EVIDENCE WHERE EVIDENCE IS NECESSARY

Attorney argument is not evidence unless it is an admission, in which case, an examiner may use the admission in making a rejection. See MPEP § 2129 and § 2144.03 for a discussion of admissions as prior art.

The arguments of counsel cannot take the place of evidence in the record. In re Schulze, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); In re Geisler, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997) ("An assertion of what seems to follow from common experience is just attorney argument and not the kind of factual evidence that is required to rebut a prima facie case of obviousness."). See MPEP § 716.01(c) for examples of attorney statements which are not evidence and which must be supported by an appropriate affidavit or declaration.

Regarding the drawing showing feature Am, it is argued that due to [0006] Am should not be confused with the process space. This is not convincing, since [0006]

states that processing space has the smooth lateral area Am: "the processing space, with a smooth lateral area Am".

Regarding the tightly intermeshing, applicant points to [0024]. Examiner does not see any support there. As to the unsupported assertion that page 5 of a German document supports the new limitation: There is no evidence to support this assertion. Applicant's unsupported assertion is treated as merely argument and is given no weight. And even though the foreign document may use a word that translates into "tightly intermeshing" - such could be mentioned in reference to a prior art invention - or a statement of inoperability. There mere inclusion of a word does not support an entire limitation.

As to the assertion that "tightly intermeshing" is known - there was no attached reference in the response.

Regarding "screw elements" it is argued that it is used "throughout the article described above" and demonstrates the phrase is known to the ordinary skill artisan. Again, The article was never submitted to the Office. But even if it is, the application makes the term indefinite for the reasons given in the rejection. In other words, Applicant has taken a known word "screw element" and used it inconsistently throughout the specification to a degree that would make it confusing to one of ordinary skill as to what is meant by the term.

IT is further argued that "tightly intermeshing" is known to the ordinary skilled artisan. However this does not overcome the basis for the rejection. As a comparison The word "hot" is well known, but it conveys different degrees of hotness to different

people. Again, Examiner was not provided the purported reference to see whether it suggests that the term "tightly" has a generally accepted meaning in the screw-conveyor art.

Regarding the prior art rejection - there is no indication of any error in the prior office action by examiner. It also appears that appellant is arguing that "the features of the process space formed...is (sic) not disclosed by the Heidemeyer patent." Examiner can find no relevance in this because the claim does not require any of the disclosed (unclaimed) features. That is, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Additionally, as indicated in the rejection, the reference claim limitation refers to the Am/Vf ratio and Da/Di in an interrelated manner. The claim does not limit the Am/Vf ratio if the Da/Di condition is not met. The claim only limits the Am/Vf when Da/Di is within the claimed range.

As to claim 18 - the comments have been considered. They fail to point out any error in the Offices' finding that it would have been obvious, or is there any indication of any claim limitation that defines over the prior art.

This does not mean the term is definite. There is no indication that there is a universally accepted standard for how tight it is.

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is (571) 272 1191. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner  
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